

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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FIREMAN'S FUND INSURANCE
COMPANY, a California corporation,

Plaintiff,

vs.

SLOAN VALVE COMPANY, a Delaware
corporation,

Defendant.

Case No.: 2:10-cv-01816-RLH-VCF

ORDER

(Motion for Reconsideration—#62;
Motion for Hearing—#67)

Before the Court is Plaintiff Fireman's Fund Insurance Company's ("Fireman's Fund") **Motion for Reconsideration** (#62, filed Dec. 16, 2011) of the Court's Order (#57) on Defendant Sloan Valve Company's ("Sloan") Motion for Partial Summary Judgment (#29). The Court has also considered Sloan's Opposition (#63, filed Dec. 30), and Fireman's Fund's Reply (#66, filed Jan. 9, 2012).

Also before the Court is Fireman's Fund's **Motion for Hearing** (#67, filed Jan. 25). Sloan did not file an opposition.

BACKGROUND

The Court has previously set forth the background of this case in its previous Order (#57). The Court only adds that in May 2011, Sloan filed a motion for partial summary judgment (#29), which the Court granted (#57). Fireman's Fund has now filed a motion for reconsideration

1 of that Order. Fireman's Fund also requests a hearing on this motion. For the reasons discussed
 2 below, the Court denies both of Fireman's Fund's motions.

3 DISCUSSION

4 Although not mentioned in the Federal Rules of Civil Procedure, motions for
 5 reconsideration may be brought under Rules 59(e) and 60(b). Under Rule 60(b), a court may
 6 relieve a party from a final judgment, order or proceeding only in the following circumstances: (1)
 7 mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence; (3) fraud; (4)
 8 the judgment is void; (5) the judgment has been satisfied; or (6) any other reason justifying relief
 9 from the judgment. *Stewart v. Dupnik*, 243 F.3d 549, 549 (9th Cir. 2000). *See also De Saracho*
 10 *v. Custom Food Mach., Inc.*, 206 F.3d 874, 880 (9th Cir. 2000) (noting that the district court's
 11 denial of a Rule 60(b) motion is reviewed for an abuse of discretion).

12 Fireman's Fund asks the Court to reconsider its November 16, 2011, Order (#57)
 13 on Sloan's Motion for Partial Summary Judgment (#36) in which the Court held that the economic
 14 loss doctrine precludes Fireman's Fund's three tort-based claims. However, Fireman's Fund
 15 presents arguments previously raised and a motion for reconsideration is not a vehicle permitting
 16 the unsuccessful party to reiterate arguments previously presented. *See Merozoite v. Thorp*, 52
 17 F.3d 252, 255 (9th Cir. 1995); *Beentjes v. Placer County Air Pollution Control District*, 254
 18 F.Supp.2d 1159, at 1161 (E.D. Cal. 2003); *Khan v. Fasano*, 194 F.Supp.2d 1134, 1136 (S.D. Cal.
 19 2001) ("A party cannot have relief under this rule merely because he or she is unhappy with the
 20 judgment."). Furthermore, in its reply to its motion for reconsideration, Fireman's Fund provides
 21 an affidavit of a mechanical engineer who raises facts and opinions not raised by Fireman's Fund
 22 during the briefing of Sloan's original motion for partial summary judgment. However, "the Court
 23 does not consider evidence on a motion for reconsideration if the evidence could have been
 24 provided before the decision was rendered initially." *Arizona Civil Liberties Union v. Dunham*,
 25 112 F.Supp.2d 927, 935 (D. Ariz. 2000) (citation omitted). Finally, Fireman's Fund points to no

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1 mistake in the Court's previous order (#57) that could serve as the basis for reconsideration.

2 Therefore, the Court denies Fireman's Fund's motion for reconsideration.

3 Finally, as to Fireman's Fund's request for a hearing on its motion for
4 reconsideration, the Court notes that Fireman's Fund has had ample opportunity to argue its
5 position on Sloan's motion for partial summary judgment. Fireman's Fund has filed an opposition
6 to Sloan's motion, a motion for reconsideration, a reply in support of its motion for
7 reconsideration, and a sur-reply in support of its motion for reconsideration. If Fireman's Fund
8 has been unable to adequately articulate or explain its position after all of those filings then a
9 hearing is not going to improve anything. The Court denies the motion.

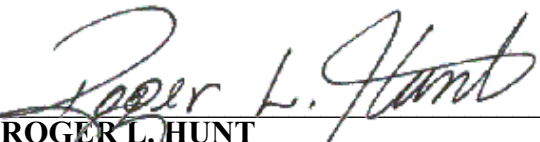
10 **CONCLUSION**

11 Accordingly, and for good cause appearing,

12 IT IS HEREBY ORDERED that Fireman's Funds Motion for Reconsideration
13 (#62) is DENIED.

14 IT IS FURTHER ORDERED that Fireman's Fund's Motion for Hearing (#67) is
15 DENIED.

16 Dated: March 16, 2012

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18 **ROGER L. HUNT**
19 **United States District Judge**
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